

(2025) 03 J&K CK 0474
In the Jammu And Kashmir High Court
Case No : WP(C) No. 1385 Of 2023

Santosha Devi

APPELLANT

Vs

UT of J&K

RESPONDENT

Date of Decision : 26-03-2025

Acts Referred:

Citation : (2025) 03 J&K CK 0474

Hon'ble Judges : Wasim Sadiq Nargal, J

Bench : Single Bench

Advocate : R. Koul, Chetna Manhas, Monika Kohli

Final Decision : Allowed

Judgement

Wasim Sadiq Nargal, J

1. The instant petition has been preferred for seeking a direction to the respondent No. 1 to register the document himself or by some other competent officer, with a further prayer to compensate the petitioner for inaction on part of the respondents in registering the said document.
2. The petitioner in the instant petition is aggrieved of the acts of omission and commission on part of the respondents in declining to register the Will Deed executed by the petitioner and, accordingly, has sought the reliefs (mentioned supra).
3. The specific case of the petitioner is that he being in advance stage of age and is 63 years as on today, was not keeping good health and the Will Deed duly complete in all respects and after paying the requisite fee came to be presented by the petitioner before respondent No. 3 way back on 25.04.2023 for its registration. However, the respondent No. 1 without any valid reason and justifiable ground did not register the said document on the ground that he was unable to read the Urdu document and, accordingly, declined to register the said document by making endorsement that the same is not readable.

4. Feeling aggrieved of the aforesaid endorsement and inaction on part of the said respondent, the petitioner preferred an appeal before respondent No. 2 being an appellate authority and the said authority with a view to ascertain the authenticity and veracity of the Will Deed, recorded the statement of the petitioner and passed the order dated 15.05.2023, directing registration of the Will Deed. However, it has come to fore that the official respondents were approached by some relatives of the brother of the petitioner with whom they had some disputes and consequently, the document could not be registered and feeling aggrieved of the same, the instant petition was preferred, challenging the inaction on part of the respondents to register the aforesaid document.

5. Record further reveals that the instant petition was listed before this Court on 29.05.2023, on which date, a detailed order was passed, whereby the petitioner was directed to approach the office of Registrar, Kishtwar with a view to present the document and upon presentation of the said document, a direction was issued to the Registrar to register the Will Deed or assign it to any other competent authority for registration within a period of ten days and the said authority after enquiring as per the Registration Act may proceed and pass the aforesaid order.

6. Pursuant thereto, the matter was listed on many occasions and the respondents have also filed a detailed reply, in which they have taken a specific stand that the documents attached with the Will Deed were not legible and clear. Therefore, the application for the Will Deed was returned to the petitioner with a direction to present the Will Deed in legible form.

7. Per contra, the respondents have filed detailed reply in which the respondents have admitted the factum of the petitioner filing an appeal before the respondent No. 2 against the decision of the Sub-Registrar (ACR), Kishtwar and the appellate authority has recorded the statement of the petitioner and thereafter, issued an order dated 15.05.2023, wherein a direction was issued to Sub-Registrar (ACR) Kishtwar to register the Will Deed, but the petitioner instead of approaching the Sub-Registrar (ACR) Kishtwar, has preferred the instant petition, whereby the aforesaid direction has been issued. However, the respondents have taken a further stand that in pursuance to the order passed by this Court dated 29.05.2023, the Sub-Registrar, Chatroo has registered Will Deed of the petitioner on 24.06.2023.

8. Thus, in light of the stand taken by the respondents, Mr. R. Koul, Advocate, learned counsel for the petitioner fairly submits that in so far as the grievance projected in the instant petition is concerned, the same has been redressed and the document, which was required to be registered has already been registered and, thus, has instructions not to pursue the matter any further. However, he has raised concern before this Court with regard to the lackadaisical approach of the appropriate authority in registering the document well in time under the Registration Act, 1908 and the document, which was required to be registered promptly, has not been registered within the aforesaid period and the inaction on

part of the respondents constrained the petitioner to file the instant petition. It was only, when the Court has intervened and issued a positive direction, the document has been registered and the petitioner has been put to a lot of inconvenience due to the inaction on part of the respondents.

9. Before parting, this Court would like to observe in the backdrop of the peculiar facts and circumstances of the case that the Sub Registrars have a specific mandate under the Registration Act, 1908 and provisions of revenue laws and they are under an obligation to discharge their statutory duties diligently with a citizen-centric approach, to realize the objective of transparent document registration services, a harbinger of Digital Governance across UT of J&K. Such document(s) as do not qualify for registration can be reverted/refused by a Sub Registrar upon citing valid reasons in writing. The Revenue Officers are required to provide accurate inputs as per requirement, so that registration of a document which constitutes a milieu for conferment of title and ownership rights to a citizen through mutation does not suffer from any infirmity or aberration.

10. Since, it has come to fore that during scrutiny of documents presented for registration, some of the Sub-Registrars used to point out deficiencies in piecemeals or seek additional documents, thereby putting the citizens to avoidable hardships, which practice besides being time consuming and unsupportive of good governance, has the potential to create doubts about the online document registration through National Generic Document Registration System (NGDRS). The Government in this regard has issued certain guidelines vide Government Order No. 183-JK(REV) of 2022 dated 18.10.2022 for scrutiny of documents during registration prescribing of checklist in reference to U.O No. Law/Opn2/196/2022 10 dated 12.10.2022 from Department of Law Justice and Parliamentary Affairs.

11. Further, with a view to ensure uniformity in seeking of documents for registration of various instruments/articles, a checklist of documents has been drawn by the Government vide Government Order No. 183-JK(REV) of 2022 dated 18.10.2022 (As per Annexure) for reference of the registering officers.

12. Thus, the direction is issued to the Registering Officers to refer to the checklist while processing documents for registration adopting a citizen-centric approach while discharging their statutory duties in terms of the provisions of the Registration Act, 1908 and the relevant laws/rules/standing orders/instructions issued by the Government from time to time.

13. It goes without saying that the role of Registering Officer is administrative in nature and does not fall within the ambit of quasi-judicial authority. As per the mandate of the Registration Act and Rules formed thereunder, the role of the Registering Officer is limited to the extent of registering the document if the same is accompanied by supporting documents and he/she is expected to evaluate the title or irregularity in the document as such. The examination to be done by him/her is incidental to ascertain that there is no violation of the

provisions of Registration Act and the Registration Officer cannot decide as to whether a document presented for registration is executed by person having title as mentioned in the instrument.

14. Thus, a direction is issued to the Registering Officers to follow the guidelines laid down in the aforesaid Government Order while processing the documents for registration with a view to discharge their statutory duties in terms of the provisions of the Registration Act and the relevant rules/standing orders.